

Case 1:07-mc-00137-ENV Document 7 Filed 04/25/2007 Page 1 of 3

Case 1:07-mc-00137-ENV Document 6 Filed 04/20/2007 Page 1 of 3

**FILED**IN CLERKS OFFICE  
U.S. DISTRICT COURT ED. N.Y.★ APR 25 2007 ★  
P.M. \_\_\_\_\_  
TIME A.M. \_\_\_\_\_UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORKTHE SCO GROUP, INC., a Delaware  
corporation,

Plaintiff and Counterclaim-Defendant,

-against-

NOVELL, INC., a Delaware corporation,

Defendant and Counterclaim-Plaintiff.

Stipulation & Order

Case No. MISC-07-137 (ENV)

Case No. 2:04cv00139 (pending in U.S.  
District Court, District of Utah)STIPULATION REGARDING NOVELL, INC.'S MOTION TO COMPEL  
COMPUTER ASSOCIATES INTERNATIONAL'S COMPLIANCE WITH SUBPOENA

WHEREAS, Defendant and Counterclaim-Plaintiff Novell, Inc. ("Novell") served a subpoena upon third-party Computer Associates International (now known as CA, Inc.), on February 2, 2007, requesting the production of documents and appearance for deposition;

WHEREAS, CA, Inc. ("CA") asserted several objections to the subpoena;

WHEREAS, Plaintiff and Counterclaim-Defendant The SCO Group, Inc. ("SCO") asserted an objection to the subpoena;

WHEREAS, Novell filed a Motion to Compel Computer Associates International's Compliance with Subpoena ("Motion to Compel") with the U.S. District Court for the Eastern District of New York;

WHEREAS, the parties wish to resolve Novell's Motion to Compel without further motion practice;

IT IS HEREBY STIPULATED AND AGREED by and between Novell, SCO and CA that Novell's Motion to Compel shall be resolved as follows, subject to approval by the Court:

1. CA will produce documents responsive to the subpoena no later than April 19, 2007. Novell waives any objection as to the timeliness of CA's objections to the subpoena asserted in Adam Bernstein's March 14, 2007 letter to Heather M. Sneddon.

2. CA may designate as "**Confidential - OUTSIDE COUNSEL'S EYES ONLY - Subject to Protective Order, SCO v. Novell, Civil Case No. 2:04CV00139 DAK**," those documents that could otherwise have been designed as "**Confidential**" under the Stipulated Protective Order, consistent with the Second Stipulated Addendum to Protective Order executed by the parties in connection herewith, and to be filed with the U.S. District Court for the District of Utah (the "Utah Federal Court") in *The SCO Group, Inc. v. Novell, Inc.*, Civil Case No. 2:04CV00139 (the "Utah Federal Litigation").

3. CA will provide a privilege log, no later than April 19, 2007, specifically identifying and describing those documents that are responsive to the subpoena that are being withheld by CA as attorney-client and/or work product privileged.

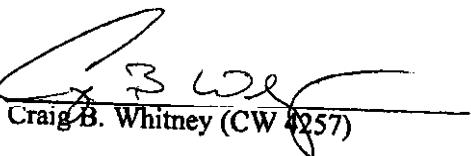
4. CA will appear for a Rule 30(b)(6) deposition. The deposition will be tentatively scheduled for Monday, April 30, 2007, beginning at 9:30 a.m. and continuing until completed. The deposition will take place at the Hyatt Regency Wind Watch, 1717 Motor Parkway, Hauppauge, New York, 11788, unless otherwise agreed by the parties.

5. CA's deposition will not take place until after the deposition of Sam Greenblatt. If the deposition of Mr. Greenblatt does not occur prior to April 30, 2007, CA's deposition will be rescheduled to take place after Mr. Greenblatt's deposition. If CA's deposition must be rescheduled to take place after April 30, 2007, the parties will not raise the existing April 30, 2007 fact discovery deadline in the Utah Federal Litigation as an objection to CA's deposition.

**STIPULATION**Dated: April 19, 2007

MORRISON &amp; FOERSTER LLP

By:

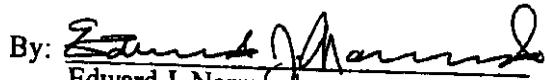
  
Craig B. Whitney (CW 4257)

Attorneys for Novell, Inc.  
1290 Avenue of the Americas  
New York, New York 10104-0050  
Tel: (212) 468-3000  
Fax: (212) 468-7900

Dated: April 19, 2007

BOIES, SCHILLER &amp; FLEXNER LLP

By:

  
Edward J. Normand

Attorneys for The SCO Group, Inc.  
333 Main Street  
Armonk, New York 10504  
Tel: (914) 749-8237  
Fax: (914) 749-8300

Dated: April 19, 2007

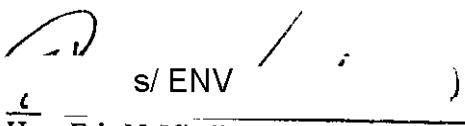
CA, INC.

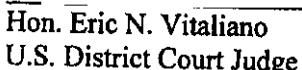
By:

  
Adam T. Bernstein (AB 0816)

1 CA Plaza  
Islandia, New York 11749  
Tel: (631) 342-2630  
Fax: (631) 342-6550

The Clerk is directed to note the **ORDER** of the motion and to close this case subject to reopening for failure of any party to this stipulation to abide by its terms. It is so ORDERED.

Dated: April 23, 2007  
s/ ENV

  
Hon. Eric N. Vitaliano  
U.S. District Court Judge